

## REMARKS

Receipt of the Office Action of March 24, 2009 is gratefully acknowledged.

The prosecution in this application has been reopened and two new references applied in conjunction with a previously cited reference. In applying the references, the examiner has rejected claims 8, 10, 11, 13 and 14 under 35 USC 103(a) as unpatentable over Brutschin in view of Kanayama, and rejected claim 12 under 35 USC 103(a) as unpatentable over Brutschin in view of Kanayama and Lewiner. These rejections have been made final and the reason given is that "Applicant's amendment necessitated the new ground(s) of rejection. Accordingly, **THIS ACTION IS MADE FINAL.....**" The "amendment" referred to by the examiner must be the **AMENDMENT UNDER 37 CFR § 1.116 FILED WITH THE APPEAL BRIEF**. But this amendment merely corrected a dependency of claim 14, and as such cannot justify the finality of the present Office Action. Independent claim 8 was not previously changed.

It is respectfully submitted that the finality of the present Office Action should be withdrawn, if the prosecution of this application is to continue.

As far as the noted rejections, they are respectfully traversed.

In an effort to place this application in condition for allowance, thereby terminating this prosecution, claim 8 has been amended to emphasize that the exactly two electrodes applied to one side of the piezoelectric element are the only electrodes applied to the whole piezoelectric element; and in order to make clear the arrangement of the two segments, claim 8 has also been amended to state that they are connected in series.

As already stated by the examiner, Brutschin (US 2003/0159506) teaches an apparatus for determining and/or monitoring a process variable of a medium, comprising the elements also recited in claim 8 with two exceptions. Brutschin does not teach the piezoelectric element having two segments which are essentially polarized oppositely to one another nor applying exactly two electrodes of opposite polarity to the side of the piezoelectric element facing away from the membrane.

Kanayama (US 5,929,554) teaches a piezoelectric transformer comprising a piezoelectric element having a first and a second main face. In one embodiment (Figure 13) the piezoelectric element shows two segments, wherein two polarizing electrodes of opposite polarity are applied to each segment. As clearly shown in Figure 13, each main surface shows two electrodes.

The apparatus disclosed in amended claim 8 comprises exactly two electrodes applied to the piezoelectric element. These two electrodes are applied to the side of the piezoelectric element facing away from the membrane. For the side facing the membrane no electrodes have to be provided, as is stated in paragraph 7. This is a great advantage of the invention. Furthermore the segments of the piezoelectric element are thereby connected in series (paragraph 8).

As in case of the apparatus disclosed in amended claim 8, the two segments formed by applying two electrodes on each main face of the piezoelectric element enclosed in the apparatus of Kanayama are oppositely polarized. However, the two segments are not connected in series, as are the segments referred to in amended claim 8.

Furthermore, Kanayama gives no hint that only two instead of four

electrodes would be sufficient for the piezoelectric transformer.

Hence, the apparatus disclosed in amended claim 8 is not obvious to a person skilled in the art combining Kanayama and Brutschin.

Regarding to the rejection of claim 12 , i.e., Brutschin in view of Kanayama and Lewiner (US 5,929,554), it should be noted that Lewiner discloses a device for measuring locally the electric charges carried by dielectrics comprises a first and a second electrode, which are mounted on opposite faces of the dielectric sheet that carries the charge to be measured. In one embodiment, the first electrode is composed of a central electrode and a cylindrical electrode that surrounds the central electrode [col. 2, lines 64-66].

There are two differences between the electrodes described by Lewiner and the electrodes of amended claim 8: First, the cylindrical electrode and the central electrode that is surrounded by the cylindrical electrode share one potential, that is, they are not oppositely charged, as are the electrodes referred to in amended claim 8; and Secondly, the electrodes of Lewiner's device are not fixed to a membrane and do not have the scope to make a piezoelectric element vibrate, but are measuring electrodes that are movably mounted above a sheet whose charge is to be measured.

Therefore, a person trying to find a solution for driving a disk-shaped piezoelectric element would not consult the measuring device disclosed by Lewiner.

In view of the foregoing, entry of the present amendment to claim 8 is respectfully urged and claims 8 and 10 - 14 found allowable.

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Respectfully submitted,  
BACON & THOMAS, PLLC



Felix J. D'Ambrosio  
Attorney for Applicant

Registration Number 25,721

Customer Number \*23364\*  
BACON & THOMAS, PLLC  
625 Slaters Lane, Fourth Floor  
Alexandria, Virginia 22314  
Telephone: (703) 683-0500  
Facsimile: (703) 683-1080

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